

DRY LAND APPROVED JURISDICTIONAL DETERMINATION FORM¹
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 4, 2018

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Albuquerque District, EVRAZ JD, SPA-2018-00288

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: CO County/parish/borough: Pueblo County City: Pueblo

Center coordinates of site (lat/long in degree decimal format): Lat. 38.2009 °, Long. -104.6002°

Universal Transverse Mercator: 535005.46 W, 4228181.2 N, Zone 13

Name of nearest waterbody: Salt Creek

Name of watershed or Hydrologic Unit Code (HUC): Upper Arkansas 11020002

- Check if map/diagram of review area is available upon request. See Enclosure 2 attached
- Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: September 13, 2018

Field Determination. Date(s): September 27, 2018

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are **no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are **no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

SECTION III: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Maps provided by Terracon
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- U.S. Geological Survey Hydrologic Atlas: Arkansas-White-Red Region
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24K; Southeast Pueblo
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name: Southeast Pueblo
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):
- or Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): Google Earth

B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD. EXPLAIN RATIONALE FOR DETERMINATION THAT THE REVIEW AREA ONLY INCLUDES DRY LAND:

On September 13, 2018, I performed a desktop review of the aerial imagery available for the subject properties of the AJD request submitted to this office by Terracon. During that review I identified 5 areas showing characteristics (i.e. water signatures & drainage patterns) of potential waters of the U.S. (WOUS). At that point I created a map of those areas (enclosure 1) and sent it to Terracon and requested a site visit to investigate these areas along with the remainder of the site. On September 27, 2018, I met with representatives of EVRAZ and Terracon in the field to perform a review of the subject AJD properties with a focus on the 5 areas identified during the desktop review as potential waters. At the onset of the meeting we determined "Site 5" was actually outside the review area, as such this area was dismissed and not observed. We then meandered through the ~5,500 acre site from north to south in vehicles and on foot attempting to observe the entire area and taking advantage of high points in the topography that provided overlooks of the landscape. In general, we were looking for changes in vegetative

¹ This form is for use only in recording approved JDs involving dry land. It extracts the relevant elements of the longer approved JD form in use since 2007 for aquatic areas and adds no new fields.

cover types that could indicate presence of hydrophytic vegetation, indicators of hydrology, and drainage patterns such as channels or swales. As we moved down through the properties, we investigated each of the 4 remaining sites identified as potential waters from the aerial imagery.

Upon arrival at "Site 1" it became clear this area was not a wetland, being dominated by Rabbitbrush (*Chrysothamnus spp.*) and showing no signs of hydrology (Enclosure 3). The EVRAZ representative then informed us that coal and other spoils were historically stored in this area, staining the ground surface a dark coloration, which looked similar to water signatures in the aerial photos. Site 1 was then ruled out as a WOUS.

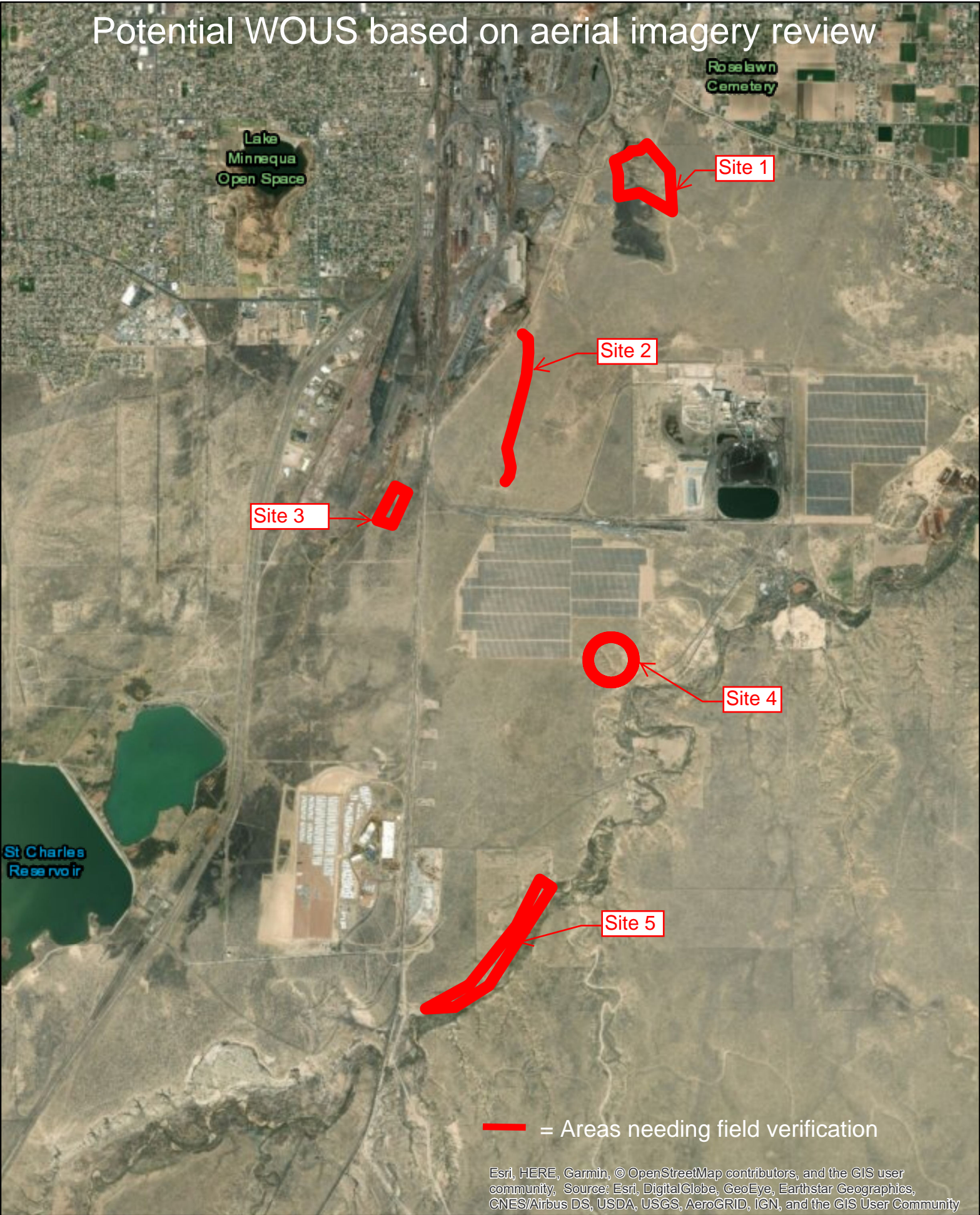
At "Site 2" we observed a shallow, linear drainage feature running north-south (Enclosure 4). Upon closer inspection we discovered there was no OHWM or established bed and banks and upland vegetation growing in the center of the channel. The feature appeared to be a historic drainage ditch constructed entirely in uplands. The channel petered out into uplands prior to reaching sand creek. Based on these observations the site was ruled out as a WOUS.

At "Site 3" we observed dominant upland species including Rabbitbrush (*Chrysothamnus spp.*) and Saltcedar (*Tamarix spp.*) and no other indicators of wetlands (Enclosure 5). Based on these observations the site was ruled out as a WOUS.

At "Site 4" we observed a dry defined channel approximately 15 feet in width that appeared to have several small drainages contributing into it (Enclosure 6). We observed several physical characteristics within the channel indicating presence of an OHWM; including sediment sorting, scour, shelving, and matted down vegetation. The stream appeared to be ephemeral or intermittent in nature and we could not consider it an RPW, so a significant nexus determination would need to be done to determine if it was in fact jurisdictional. We conveyed this information to the applicant and consultant and they decided to exclude this area from consideration in the AJD because the topography is not suitable for development of their solar project activities anyway. We then modified their AJD request boundary to exclude this area (Enclosure 2) and it is no considered part of this AJD.

All other areas included in this AJD were observed sufficiently to determine they are uplands and this office concurs with the wetland delineation prepared by Terracon on 6/28/18.

Potential WOUS based on aerial imagery review



Approved JD Boundary SPA-2018-288



Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

SITE 1 Looking West



ENCLOSURE 3

SITE 2 Looking North



ENCLOSURE 4

SITE 3 Looking SouthEast



SITE 4 Looking NorthWest



ENCLOSURE 6